

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

AMERICAN INTERNATIONAL GROUP, INC., et al.,	)	Case No. 07 CV 2898
v.	)	Judge Robert W. Gettleman
ACE INA HOLDINGS, INC., et al.	)	Magistrate Judge Sidney I. Schenkier
Defendants.	)	
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LIBERTY MUTUAL INSURANCE COMPANY, et al.	)	
Counter-Claimants,	)	
v.	)	
AMERICAN INTERNATIONAL GROUP, INC., et al.	)	
Counter-Defendants.	)	
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SAFECO INSURANCE COMPANY OF AMERICA and OHIO CASUALTY INSURANCE COMPANY, individually, and on behalf of a class consisting of members of the National Workers Compensation Reinsurance Pool,	)	Case No. 09 CV 2026
Plaintiffs,	)	Judge Robert W. Gettleman
v.	)	Magistrate Judge Sidney J. Schenkier
AMERICAN INTERNATIONAL GROUP, INC., et al.,	)	
Defendants.	)	

**MOTION FOR COURT ORDER RELATED TO RELEASE OF ANY CONFIDENTIAL INFORMATION CONTAINED IN PLAN OF ALLOCATION**

National Council on Compensation Insurance, Inc. (“NCCI”), by its undersigned attorney, Harry N. Arger, respectfully moves this Court for an Order related to the release of any confidential information contained in the Plan of Allocation, and in support thereof, states as follows:

1. NCCI is a voluntary, not-for-profit, data collection, research and ratemaking organization that, among other things, prepares and administers loss costs/rates, rating plans and systems for workers compensation insurance. One of its primary functions is to collect, process, and analyze workers compensation data for participating companies in the National Workers Compensation Reinsurance Pool (“NWCRP”) as the NWCRP’s Pool Administrator.

2. NCCI performs services as Pool Administrator pursuant to an Administration Agreement with the NWCRP and also pursuant to separate Articles of Agreement individually entered into with each participating company in the NWCRP.

3. The Administration Agreement provides, in pertinent part, that the premium data submitted by each participating member company is to be considered confidential and proprietary information and a valuable asset that NCCI shall take reasonable steps to ensure its confidentiality. Each participating company’s confidential data is not to be disclosed unless for that company’s own use or for the purposes provided for in the Administration Agreement. An exception is that such confidential information can be disclosed if required to be disclosed pursuant to a valid subpoena or court order with sufficient notice given.

4. Likewise, the Administration Agreement with the NWCRP provides, in pertinent part, that a participating company’s Pool participation ratio is confidential and not to be provided unless required by statute, regulation or court order, among other things.

5. Per the terms of the Settlement Agreement filed on January 28, 2011, the NWCRP directed and authorized NCCI, as Pool Administrator, to prepare a Plan of Allocation for distribution of the Class Fund attributable for the NWCRP. (*See* Dkt. No. 332, Case No. 09 C 2026, para. III.B.1). The Settlement Agreement further provides that the Plan of Allocation include for a portion of the Class Fund to be attributable to the New Mexico Workers Compensation Assigned Risk Pool (“NMWCARP”).<sup>1</sup>

6. In response to such direction, NCCI prepared a Plan of Allocation for the NWCRP portion and submitted it to counsel for AIG, the Settling Plaintiffs, Liberty, Ohio Casualty, Safeco, Sentry and the NWCRP, on February 1, 2011. As the Plan of Allocation contains data and participation ratios that are arguably confidential under the Administration Agreement, NCCI submitted the Plan of Allocation on a “Highly Confidential-Outside Counsel’s Eyes Only Produced Pursuant to Protective Orders in Case Nos. 07 C 2898 and 09 C 2026” basis on February 1, 2011.

7. Some party recipients of the Plan of Allocation have requested that the “Highly Confidential” basis be removed such that their respective business people and in house counsel can review it. In addition, although the Plan of Allocation is more than 5,000 pages and unlikely to be sent to all class members in its current form, there may also be a need in the future to circulate a form of the Plan of Allocation to such class members which does contain confidential information. Hence, this motion is being brought to avoid any ambiguity or delay and out of an abundance of caution to comply with the aforementioned agreements, the current request and any future disclosure.

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<sup>1</sup> The NMWCARP portion of the Plan of Allocation has not been completed yet, but will encounter similar confidentiality issues and therefore this motion seeks an order on both the NWCRP and NMWCARP portions.

WHEREFORE, National Council on Compensation Insurance, Inc., respectfully requests this Court to enter an Order removing the “Highly Confidential” basis and requiring complete disclosure of the Plan of Allocation for both the NWCRP and NMWCARP portions and for such other and further relief as this Court deems just and reasonable.

Respectfully submitted,

By: /s/Harry N. Arger  
Attorney for National Council on  
Compensation Insurance, Inc.

Harry N. Arger (ARDC No. 6198806)  
Dykema Gossett PLLC  
10 S. Wacker Drive  
Suite 2300  
Chicago, Illinois 60606  
312.627.2127  
harger@dykema.com

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, having been first duly sworn upon oath, states that he electronically filed a complete copy of the foregoing with the Clerk of the Court using the ECF System, which sent electronic notification of the filing to all counsel of record on February 3, 2011:

/s/ Harry N. Arger